

REMARKS

At the outset, Applicant respectfully thanks the Examiner for conducting a telephonic interview with Applicant's attorney, Elizabeth Galletta, on February 24, 2010. A summary of that telephonic interview is included herein.

Claims 1-14 were pending and examined in the outstanding Office Action. Claims 4, 5, 7-9, 13 and 14 were withdrawn as being drawn to a non-elected invention. By virtue of the instant Amendment and Reply, claims 1 and 12 are amended, no new claims are added, and claims 2-10 and 13-14 are canceled. Accordingly, claims 1, 11 and 12 remain pending. No new matter is added herein.

Claim Amendments

Without addressing the patentability of claims 1 and 12 as previously presented in view of the cited references, and without addressing the relevancy (if any) of the references, and merely to streamline prosecution of the present application, clarifying amendments have been made to claims 1 and 12. Support for the amendments can be found throughout the instant application and specifically in original claims 1-14, as well as paragraphs [00116], [00117], [00281] and [00285] of the instant application.

Objections to the Specification

The specification is objected to because of alleged informalities. Specifically, the Examiner states the "[s]pecification (02/26/2007) page 4 line 24, portion by the expanding. Line 25, recover by the expanding. Line 26, drop by the expanding. Line 27, portion by the hanging. Delete "the" from these lines." Office Action at p. 2.

As discussed with the Examiner on February 24, 2010, Applicant respectfully submits the specification submitted to the USPTO on February 26, 2007 was an English translation of the original application and was submitted in response to a Notification of Missing Requirements mailed February 13, 2007. The English translation of the original application was submitted to fulfill the Notification of Missing Requirements and was not submitted to supersede or replace the substitute specification submitted with the filing of the instant application on June 1, 2006. Accordingly, Applicant requests confirmation that the substitute specification submitted on June 1, 2006 is the specification under examination.

In an effort to advance prosecution of the instant application, Applicant herein amends paragraph [0009] of the substitute specification submitted June 1, 2006 consistent with the Examiner's suggestions in the outstanding Office Action. Accordingly, Applicant submits the objections to the specification are overcome and respectfully request withdrawal of the same.

Claim Rejections Under 35 USC §112

Claim 14 is rejected under 35 USC § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Specifically, the Examiner alleges the recited "control member" is not described in the specification.

Claim 14 is canceled herein, thereby rendering the instant rejection moot. Accordingly, Applicant respectfully requests withdrawal of the instant rejection.

Claims 1-3, 10, 12 and 14 are rejected under 35 USC §112, second paragraph, as allegedly being indefinite for failing to point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, regarding claims 1-3 and 10, the Examiner states the phrase "wherein" constitutes a use limitation and thus renders the claims indefinite as to what structure is embraced by the metes and bounds of the claim language. Regarding claim 12, the Examiner states the phrase "drops by the opening" is not defined, while in claim 14, the Examiner states the phrase "a control member" is not defined.

As presented herein, claim 1 recites, *inter alia*, "... wherein the carrying mode of the multi-chamber container is a mode folded in two, and wherein the opening preventing portion is a seal which bonds between the filling chambers in the carrying mode of the multi-chamber container, and peels off by expanding the folded multi-chamber container to open the filling chambers in therebetween via the communication portion in a use mode of the multi-chamber container." Applicant submits the amended "wherein" clause of claim 1 defines elements of the claimed multi-chamber container and does not constitute a use limitation. Reconsideration and withdrawal of the instant rejection is therefore requested.

As presented herein, claim 12 recites, *inter alia*, "... the caution member drops by expanding the folded multi-chamber container in the use mode of the multi-chamber container." The amendment deletes the wording "drops by the opening" which was identified as indefinite by the Examiner. Applicant submits the instant rejection as applied to claim 12 is overcome and respectfully requests reconsideration and withdrawal of the same.

The instant rejection is rendered moot as applied to currently canceled claims 2, 3, 10 and 14.

Claim Rejections Under 35 USC §102

Claims 1-3 and 10 are rejected under 35 USC §102(b) as allegedly anticipated by U.S. Patent Application Publication No. 2002/0029985 to Stunnell. Regarding claims 2, 3 and 10, the instant rejection is rendered moot. Regarding claim 1, Applicant respectfully disagrees and traverses the instant rejection.

Stunnell is directed to a storing and mixing container and method for separately depositing and storing a first substance and a second substance in separate chambers and for mixing the substances together at the time of use by breaking the barrier between the separate chambers. *See* Stunnell at Abstract.

Claim 1, as amended herein, recites:

A multi-chamber container that accommodates a plurality of agents, comprising:
a plurality of filling chambers to fill agents;
a communication portion that is provided in at least one of the filling chambers to cause the filling chambers to be communicated with one another; and
an opening preventing portion that closes the communication portion in a carrying mode of the multi-chamber container,
wherein the carrying mode of the multi-chamber container is a mode folded in two, and wherein the opening preventing portion is a seal which bonds between the filling chambers in the carrying mode of the multi-chamber container, and peels off by expanding the folded multi-chamber container to open the filling chambers in therebetween via the communication portion in a use mode of the multi-chamber container

Applicant submits that Stunnell fails to disclose or suggest the instantly claimed multi-chamber container. Specifically, Stunnell fails to disclose or even suggest a multi-chamber container having a carrying mode that is a mold folded in two and an opening preventing portion that is a seal that bonds between filling chambers in the carrying mode of the container and peels off by expanding the folded multi-chamber container to open the filling chambers in therebetween.

In contrast to the instantly claimed multi-chamber container, Stunnell describes a bent container (1) with an applicator cap (13) closure at one end, a permanent crimp seal (18) at the opposite end and two chambers (10 and 11) separated by a breakable interior seal (15). Stunnell at para. [0056]. Squeezing the unbent container (1) causes the breakable interior seal (15) to break and the first substance (22) and the second substance (23) to interact. The user of the

container (1) will preferably shake the container to facilitate mixing of the contents. Stunnell at para. [0062]. The examples of Stunnell further explain the “squeeze and shake” container described in Stunnell. *See e.g.*, Stunnell at examples 1 and 2.

Applicant submits the “squeezing” of the container in Stunnell to break the interior seal does not disclose or suggest the opening preventing portion of the instantly claimed container, which bonds between the filling chambers in the carrying mode of the multi-chamber container, and peels off by expanding the folded multi-chamber container. Accordingly, the instant claims are not anticipated by, or rendered obvious over Stunnell. Applicant therefore respectfully requests withdrawal of the instant rejection.

Claim Rejections under 35 USC §103

Claims 11 and 12 are rejected under 35 USC §103(a) as allegedly being unpatentable over Stunnell as applied to claim 10 above and further in view of U.S. Patent Application Publication No. 2004/0188281 to Iwasa et al. Applicants disagree.

Regarding claim 11, the Examiner alleges that “Stunnell discloses the claimed invention except a caution member to check opening between the filling chambers. Iwasa et al. teaches a caution member [352, fig 12]. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Stunnell’s container with a caution member as taught by Iwasa. . . .” Office Action at p. 6. Regarding claim 12, the Examiner alleges “Stunnell modified in view of Iwasa discloses the caution member is attached to near the communication portion [3, fig 12], and drops by the opening.” *Id.*

Stunnell is discussed in detail above. Iwasa et al. is directed to a medicine bag used in the medical field or the like. Specifically, the medicine bag of Iwasa et al. is used by providing a weak seal portion that divides its bag body into a plurality of division spaces, removing the sealing of the weak seal portion adjacent to a specific division space by increasing the internal pressure of that division space and mixing a medicine stored in a predetermined division space. Iwasa et al. at para. [0002].

Iwasa does not remedy the lack of disclosure of Stunnell. Accordingly, since claims 11 and 12 depend on claim 1, for the reasons discussed above with respect to claim 1, claims 11 and 12 are not rendered obvious by Stunnell, Iwasa et al., or any combination thereof. Therefore, Applicant respectfully requests reconsideration and withdrawal of the instant rejection.

Should the Examiner have any questions regarding this Amendment and Reply, Applicant respectfully requests that the Examiner contact Applicant's representative at the phone number listed below. While Applicant believes that no fees are due with the submission of this Amendment and Reply, please charge any deficiencies in fees to Deposit Account No. 503342.

Respectfully submitted,

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